

November 12, 2012

To: Science Advisory Committee

From: Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas and San Antonio Bays Basin and Bay Area Stakeholders Committee (BBASC)

Re: SB 3 Environmental Flows Process, Lessons Learned

Dear Chairman Huston:

The Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas and San Antonio Bays Basin and Bay Area Stakeholders Committee (BBASC) understands the Science Advisory Committee (SAC) is drafting a set of recommendations for the Environmental Flows Advisory Group (EFAG) to consider heading into the 83rd Texas Legislative Session that will clarify and enhance the environmental flows program. As such, the BBASC respectfully submits the following thoughts with particular focus on the adaptive management phase of the environmental flows program. The BBASC has reflected on the first round of rulemaking to determine what worked well and what, if anything, should be changed or modified to improve future rulemaking rounds.

There were several positive areas to highlight from the first round of rulemaking. Most notably, the dedication of all of the volunteer members of the BBASC and the Guadalupe – San Antonio Basin and Bay Expert Science Team (BBEST) was excellent. The Environmental Flows Advisory Group (EFAG) did well to appoint a BBASC that included stakeholders that had not been part of previous water planning initiatives and the BBASC appointed a BBEST that was balanced between instream and estuarine experience. The BBEST produced a high quality consensus recommendation report and provided the BBASC continued support through their flow recommendation deliberations.

The legislatively imposed deadlines at times spurred rapid progress however the BBASC definitely, despite a year of education on environmental flows science and modeling, felt that the time constraints may have impeded our ability to develop a consensus report within the

tight six month timeframe. Although the BBASC met monthly during the year while the BBEST was developing their recommendation report there was still an extremely steep learning curve for most, if not all, BBASC members to fully understand the BBEST recommendations.

As we enter the adaptive management phase of the environmental flows program there is a level of uncertainty with how the BBASC should proceed with their adaptive management duties. The uncertainty is due to length of the stakeholder terms and when exactly the BBASC's will be abolished. SB 3 stated stakeholders serve five-year terms and that BBASCs and BBESTs are abolished when environmental flow standards have been adopted "for all of the river basin and bay systems in this this state." Most BBASCs have already been in existence for three years so the current stakeholders are closer to the end of their appointments than they are to the beginning of their terms. The current stakeholders do not know whether they will be reappointed to validate or refine the rules established in the first round of rulemaking. Additionally, as noted above, the BBASCs and BBESTs are to be abolished once standards have been adopted for all basin and bay systems in the state and there is a question as to whether this means just the major basin and bay systems or all the minor ones as well that do not, at this time, have an established timeline for the environmental flows program. It would be beneficial to have these issues clarified so the current stakeholders can plan for their next round of deliberations or allow a newly appointed group to continue the rules validation and refinement process.

This BBASC recommended a five-year review period in the Work Plan. However, the level of review is largely dependent upon how much new data is developed in the intervening years. In order to support future rulemaking decisions the most obvious need, that can't be overstated, is that of funding to advance the body of science on the rivers and bay systems. The BBASC encourages the State of Texas to prioritize funding for the scientific studies and activities presented in the environmental flows Work Plans. As the state's population continues to grow, we are very aware that all natural resources will be stressed. It is important to have sound scientific data to assess and understand the benefits and detriments of each decision that is

made. The State of Texas, river authorities and other natural resource managers are limited as stewards of these resources without access to thorough information and scientific data from which to evaluate decisions. As the State of Texas continues to look at funding strategies to meet future water supply needs; we ask the State to consider funding mechanisms to support the recommendations within environmental flows Work Plans. Funding will be critical to ensure that decisions related to the management of limited water supplies have the best available information to sustain the future well-being of the economy and natural resources of the State of Texas.

To encourage local, regional and state agencies, as well as academic institutions, to undertake Work Plan identified studies, the BBASC recommends the State of Texas prioritize such studies when issuing research grants. Placing higher priority on the Work Plan studies makes sense as they have been developed and scrutinized by a diverse stakeholder group in an open and transparent public process. Another option to having Work Plan studies and research conducted in a timely manner would be to appoint a state agency to be responsible for Work Plan implementation similar to how the Texas Water Development Board is responsible for ensuring the state water plan is updated every five years. The BBASC recommends the State give appropriate weight to Work Plan elements by giving them priority for research grants and instructing the state agencies to strongly consider initiating those studies that are within their expertise.

Funding also should be considered for further BBEST work, including their continued critical support of the BBASCs. In addition, there were several private citizen stakeholders on the BBASCs that sacrificed lost time and wages during the first round of recommendations and rulemaking. It would be appropriate for the state to consider funding for BBASC members' travel and lodging where appropriate. Such funding for BBASC members could be made available to those stakeholders that are truly private citizens and are not representing river authorities, water purveyors, municipalities, industry and the like. State funding of the BBESTs and BBASCs will ensure appropriate transfer of knowledge continues to occur between the

BBEST and BBASC and that all stakeholders on the BBASC are operating on a more equal funding level in support of the State's water planning program.

The BBASC has several suggestions that can be categorized as state agency support of BBASC deliberations. One of the 'take home' lessons from the first round of rulemaking was that TCEQ surface water permitting should have been in the BBASCs first year curriculum. As mentioned above, the year-long education process during the BBEST's work was very beneficial to the stakeholders; however the surface water permitting process was not adequately addressed and therefore not fully understood. One suggestion to correct this knowledge gap would be to have TCEQ "walk" a new surface water permit application through the now established environmental flow rules. Walking a permit application through the evaluation process will provide future stakeholders an understanding of the permitting analysis performed by TCEQ and demonstrate how WAM Run 3 is utilized.

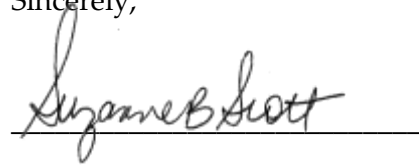
Another overall observation of the BBASC was that one of the state agencies that supported the SB 3 process seemed generally guarded in their communication with the BBASC. The reticence in their communications may have been an unintended consequence of the design of the SB3 process that legislatively separated the stakeholder process from the rulemaking process. BBASC believes the state agencies should be encouraged to actively provide pertinent information to the BBASCs in future rounds of flow recommendation discussions and urges the agencies to be clear, open, and concise when communicating with the stakeholders.

More specifically, we urge the TCEQ to promote more understanding and dialogue throughout the rulemaking process. Region by region discussion with TCEQ on the models, technical tools, assumptions and data to be used should be understood prior to the work of the BBEST, BBASC and TCEQ staff. Such interaction would promote consistency in the analysis and ease in comparing and contrasting of recommendations at all steps of the process. In addition, a TCEQ-coordinated workshop with the BBEST and the BBASC during its technical analysis phase to ensure understanding and interpretation of analysis presented in reports by the BBEST and

BBASC would be advisable. Improved communication will reduce any potential for misinterpretation of the recommendations and strategies presented and will make the process much more transparent for stakeholders to understand the similarities and differences that may result from the TCEQ analysis and decision-making process.

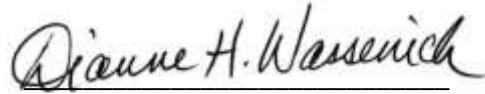
The Guadalupe – San Antonio BBASC respectfully submits the above thoughts and suggestions for the SAC to consider as it develops its future SB 3 recommendations for the Environmental Flows Advisory Group.

Sincerely,

A handwritten signature in cursive script, reading "Suzanne B. Scott", written over a horizontal line.

Suzanne B. Scott

GSA BBASC Chair

A handwritten signature in cursive script, reading "Dianne H. Wassenich", written over a horizontal line.

Dianne Wassenich

GSA BBASC Co-chair